Housing Act 2004 (c. 34)
SCHEDULE 10 – Provisions relating to tenancy deposit schemes
Document Generated: 2023-09-27

1

S C H E D U L E S

SCHEDULE 10

PROVISIONS RELATING TO TENANCY DEPOSIT SCHEMES

Insurance schemes: general

5   (1) This paragraph applies to an insurance scheme.

[**F1**(1A) The scheme must make provision as to the requirements that fall to be complied with by the landlord or by the scheme administrator where—

    (a)   a landlord wishes to retain a tenancy deposit under the scheme; or

    (b)   a landlord retaining a tenancy deposit under the scheme (in relation to a tenancy that has not terminated) gives notice to the scheme administrator that he no longer wishes to retain the deposit under that scheme.]

    (2) The scheme must provide that any landlord by whom a tenancy deposit is retained under the scheme must give the scheme administrator an undertaking that, if the scheme administrator directs the landlord to pay him any amount in respect of the deposit in accordance with paragraph 6(3) or (7), the landlord will comply with such a direction.

    (3) The scheme must require the scheme administrator to effect, and maintain in force, adequate insurance in respect of failures by landlords by whom tenancy deposits are retained under the scheme to comply with such directions as are mentioned in sub-paragraph (2).

[**F2**(3A) The scheme may make provision enabling the scheme administrator to determine that, by virtue of the landlord's failure to comply with a relevant obligation, a tenancy deposit which has previously been retained by a landlord under the scheme (and which relates to a tenancy which has not ended) is to cease to be retained under the scheme.

    (3B) Provision under sub-paragraph (3A) must require the scheme administrator, before making a determination, to give a notice to the landlord stating that the scheme administrator proposes to make such a determination and the reasons for the proposal.]

    (4) If the scheme provides for landlords participating in the scheme to be members of the scheme, the scheme may provide for a landlord's membership to be terminated by the scheme administrator in the event of any [**F3**failure by the landlord to comply with a relevant obligation].

[**F4**(4A) Provision made under sub-paragraph (4) must require the scheme administrator, before determining that the landlord's membership be terminated, to give a notice to the landlord stating that the scheme administrator proposes to make such a determination and the reasons for the proposal.

    (4B) On the termination of a landlord's membership under sub-paragraph (4)—

2

Housing Act 2004 (c. 34)
SCHEDULE 10 – Provisions relating to tenancy deposit schemes
Document Generated: 2023-09-27

Changes to legislation: Housing Act 2004, Paragraph 5 is up to date with all changes known to be in force on or before 27 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

> (a) any tenancy deposits previously retained by the landlord under the scheme (in relation to tenancies which had not ended before the termination) cease to be retained under the scheme; but
>
> (b) the scheme continues to apply to a tenancy deposit retained by the landlord under the scheme in relation to a tenancy which ended before the termination as if the landlord were still a member.**]**

(5) The scheme may provide for landlords participating in the scheme to pay to the scheme administrator—

> (a) fees in respect of the administration of the scheme, and
>
> (b) contributions in respect of the cost of the insurance referred to in sub-paragraph (3).

[^{F5}(6) Paragraph 5A makes further provision in relation to the procedure to be followed after a notice of the kind mentioned in sub-paragraph (1A)(b), (3B) or (4A) has been given in accordance with the scheme.

(7) In this paragraph " relevant obligation " means—

> (a) the duty to comply with a direction mentioned in sub-paragraph (2); or
>
> (b) any obligation under the scheme which is specified in the scheme as a relevant obligation for the purposes of this paragraph.**]**

Textual Amendments

F1 Sch. 10 para. 5(1A) inserted (6.4.2007) by The Housing (Tenancy Deposit Schemes) Order 2007 (S.I. 2007/796), **art. 4(2)**

F2 Sch. 10 para. 5(3A)(3B) inserted (6.4.2007) by The Housing (Tenancy Deposit Schemes) Order 2007 (S.I. 2007/796), **art. 4(3)**

F3 Words in Sch. 10 para. 5(4) substituted (6.4.2007) by The Housing (Tenancy Deposit Schemes) Order 2007 (S.I. 2007/796),{art. 4(4)}

F4 Sch. 10 para. 5(4A)(4B) inserted (6.4.2007) by The Housing (Tenancy Deposit Schemes) Order 2007 (S.I. 2007/796), **art. 4(5)**

F5 Sch. 10 para. 5(6)(7) inserted (6.4.2007) by The Housing (Tenancy Deposit Schemes) Order 2007 (S.I. 2007/796), **art. 4(6)**

Commencement Information

I1 Sch. 10 para. 5 wholly in force at 6.4.2007; Sch. 10 para. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 10 para. 5 in force for W. at 6.4.2007 by S.I. 2007/305, **art. 2**; Sch. 10 para. 5 in force for E. at 6.4.2007 by S.I. 2007/1068, **art. 2(a)**

Changes to legislation:
Housing Act 2004, Paragraph 5 is up to date with all changes known to be in force on or before 27 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

– Act savings and transitional provisions for amendments by S.I. 2022/1166 by S.I. 2022/1172 Regulations

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

– s. 66(1A) inserted by 2016 c. 22 s. 125(3)(a)
– s. 66(3A)(3B) inserted by 2016 c. 22 s. 125(3)(c)
– s. 89(1A) inserted by 2016 c. 22 s. 125(6)(a)
– s. 89(3A)(3B) inserted by 2016 c. 22 s. 125(6)(c)
– s. 139(7A)(7B) inserted by 2016 c. 22 s. 127(3)